



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|-----------------------------|------------------|
| 10/766,666 | 01/27/2004 | Dale G. Bramlet | 2268.011 | 3022 |
| 21917 | 7590 | 08/10/2005 | | |
| MCHALE & SLAVIN, P.A. 2855 PGA BLVD PALM BEACH GARDENS, FL 33410 | | | | |
| | | | EXAMINER DAVIS, DANIEL J | |
| | | | ART UNIT 3731 | PAPER NUMBER |

DATE MAILED: 08/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/766,666

Applicant(s)

BRAMLET ET AL.

Examiner

D. Jacob Davis

Art Unit

3731

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on June 27, 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 19 and 20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11, 13, 16 and 17 is/are rejected.
- 7) ☒ Claim(s) 12, 14, 15 and 18 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 1/27/04 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- 1) ☐ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 1/27/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

Applicant's election with traverse of the restriction requirement in the reply filed on June 27, 2005 is acknowledged. The traversal is on the ground(s) that applicant has the right to file claims of differing scope. Regarding the restriction between apparatus claims, examiner agrees with applicant and withdraws the restriction between the apparatus claims. However, the restriction between method and apparatus is maintained since the apparatus may perform a materially different method. The requirement is still deemed proper and is therefore made FINAL.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 13-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 13 recites the limitation "the shoulder" in line 7. There is insufficient antecedent basis for this limitation in the claim.

Art Unit: 3731

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-10 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 6,183,474 to Bramlet et al. Bramlet discloses in figure 89 a lag screw 810 having a longitudinal bore 825, external threads on the leading end, a first connector comprising the internal threads in the bore and a discharge hole 826A. (As shown in figure 89, the hole on the left side is the discharge hole since it discharges a tang). The hole discharges a tang. The assembly further comprises a compression screw 860 as illustrated in figure 84. The lag screw comprises an enlarged head and a second connector comprising the threaded shank 864. A side plate 850 having an aperture 856 receives the lag screw 860 and is shaped for longitudinal movement. The side plate includes a barrel 852 and cortical screw holes. The device comprises a tang exit hole 826A in the leading end. (The tang exit hole is located on the right side of the device as shown in figure 89).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 3731

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 11 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bramlet in view of U.S. Patent No. 4,653,489 to Tronzo. Bramlet fails to disclose an adaptor 46 having a bore and external threads. Tronzo teaches an adaptor 46 to interconnect a syringe to a side plate to inject cement to secure the threaded fastener within the bone. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include an adaptor (and a syringe) to inject cement to better secure the threaded fastener within the bone. The external threads telescope within the bore. The Bramlet device comprises a seal 842. Tronzo discloses that the adaptor includes a circumferential shoulder 48 between the exit and the connector. The connector attaches to the syringe.

Claims 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bramlet in view of U.S. Patent No. 3,791,380 to Dawidowski. Bramlet fails to disclose that the compression screw is connected to a distal end and the tang body 832 moves toward a leading end. Nevertheless, Dawidowski discloses that the tangs may exit in a distal direction out of the body. It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the tangs to exit toward a distal end as taught by Dawidowski to effectively secure the device to bone and to create a compressive force. The tip of the device comprises an end cap.

Art Unit: 3731

Allowable Subject Matter

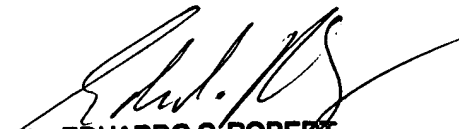
Claims 12, 14, 15 and 18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to D. Jacob Davis whose telephone number is (571) 272-4693. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eduardo C. Robert can be reached on (571) 272-4719. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DJD


EDUARDO C. ROBERT
PRIMARY EXAMINER